"That case has been cited and affirmed by this court in a long line of cases cited in the Anno. Ed., and the principle is universally recognized. The fact of the existence of the relationship of attorney and client at the time the contract is alleged by the plaintiff to have been made appears from the complaint, and by the evidence of the plaintiff himself, Stern, and the judge should have held the alleged contract, if made, to have been void, as a matter of law. And unless the jury rejected, as it would seem that they did, the defendant's allegation that there was a contract made prior to entering into the relationship for $200, then the case should have been submitted to the jury upon the third prayer of the defendants as above set out, and the jury should have assessed the plaintiff's recovery upon the basis of a reasonable compensation for the services rendered by the plaintiffs and the benefits received by the defendants."

Evidence—Admissibility of Evidence Secured by Unlawful Search.—In Dukes *v.* United States, 275 Fed. 142, the U. S. Circuit Court of Appeals for the Fourth Circuit held that where a sheriff and his deputy, without a warrant of arrest or search warrant, entered defendant's house through an open door, and seized whisky which was on a table by which defendant was standing, the fact that defendant did not object, or that he then said they might look around, which they did, finding more in another building, did not make the search or seizure lawful, nor render the evidence so procured admissible against defendant in a criminal prosecution.

The court said in part: "It is argued that the defendant made no objection to the entry of the witnesses, either upon his premises or into his dwelling, and therefore that it was a peaceful entry, and that the rule excluding testimony against a person accused of crime on his trial, such testimony having been obtained by search without warrant, does not apply. We do not agree to this proposition. These two witnesses, one the sheriff of the county in which the defendant lived, and the other his deputy, crossed the defendant's threshold and invaded his castle without warrant of law. There is no suggestion that objection on the part of the defendant, to either the entry of these officers into his dwelling or the seizure by them of his property, would have caused them to desist. On the other hand, it is more than likely that any protest or show of resistance on the part of the defendant would have led to more aggressive action on the part of the officers.

"In Gouled *v.* United States, 254 U. S. ——, 41 Sup. Ct. 261, 65 L. Ed. ——, in which the opinion was rendered by the Supreme Court of the United States on the 28th of February, 1921, this question of unreasonable searches and seizures is fully discussed. Gouled and another were indicted for a conspiracy to defraud the United States in one count, and in another for the use of the mails to promote a scheme

to defraud. On the trial of Gouled the prosecution proposed to offer in evidence certain papers, which had theretofore been surreptitiously taken from the office of the defendant by one acting under the direction of the intelligence department of the army. The trial court admitted the papers on the ground that they were obtained without the use of force or illegal coercion. In this connection the court says:

" 'The prohibition of the Fourth Amendment is against all unreasonable searches and seizures, and if for a government officer to obtain entrance into a man's house . . . by force or illegal threat or show of force amounting to coercion, and then to search for and seize his private papers, would be an unreasonable and therefore prohibited search and seizure, as it certainly would be, it is impossible to successfully contend that a like search and seizure would be a reasonable one if only admission were obtained by stealth instead of by force or coercion. The security and privacy of the home or office and of the papers of the owner would be as much invaded, and the search and seizure would be as much against his will, in the one case as in the other, and it must therefore be regarded as equally in violation of his constitutional rights.'

"It is further contended that the acquiescence of the defendant in what the witnesses had done, and his permission, as it is alleged, for them to look around, takes this case without the scope of the case above cited. We feel constrained to disagree to this proposition. It is reasonable to conclude that the defendant, in the presence of the sheriff of the county and his deputy, who were in his dwelling and by their action making it known to him that they were seeking evidence in aid of a criminal charge against him, was in a state of mental trepidation. He was no doubt overawed by the presence of these two officers under the circumstances; therefore what he said or did should not be used to his disadvantage in a subsequent trial of the case in which evidence against him was being sought. Besides, in our opinion, the sheriff of the county, accompanied by one of his deputies, making entry without authority into the home of a citizen, is such a show of force as is contemplated by the decision of the Supreme Court in the Gouled case.

"The Fourth Amendment to the Constitution prohibits unreasonable searches and seizures, and the Fifth Amendment protects an accused person from being compelled to testify against himself. A close relation therefore exists between these two amendments, and it is well said by Justice White, afterwards Chief Justice, in delivering the opinion of the Supreme Court of the United States in the case of Bram *v* United States, 168 U. S. 532, 18 Sup. Ct. 183, 42 L. Ed. 568, commenting upon the decision in Boyd *v.* United States, 116 U. S. 616, 6 Sup. Ct. 524, 29 L. Ed. 746, referring to the two amendments:

" 'That both of these amendments contemplated perpetuating, in their full efficacy, by means of a constitutional provision, principles of humanity and civil liberty, which had been secured in the mother

country only after years of struggle, so as to implant them in our institutions in the fullness of their integrity, free from the possibilities of future legislative change.'

"And further in the opinion is the following quotation from a note to Gilham's case, 2 Moody, 194, 195:

" 'The human mind, under the pressure of calamity, is easily seduced; and is liable, in the alarm of danger, to acknowledge indiscriminately a falsehood or a truth, as different agitations may prevail.'

"Whilst the Bram case is confined primarily to the rules of law relating to the admissibility of alleged confessions in criminal trials, yet it presents the purposes of the Fourth and Fifth Amendments to the Constitution in such forceful and impressive language that we cite it as bearing upon the proposition that whatever the defendant in this case may have said, when confronted by the sheriff and his deputy, who had wrongfully entered his dwelling in pursuit of evidence to sustain a charge of crime against him, should not be accepted as testimony in his trial."

Forgery—Obtaining Signature by Fraud.—In Austin *v.* State, 228 S. W. 60, the Supreme Court of Tennessee held that persons who obtained the signature of a person to a deed fraudulently by representing it to be an affidavit were not guilty of forgery under Thomp. Shan. Code, sec. 6596.

The court said in part:

"Section 6596 of Thompson's Shannon's Code defines forgery as follows:

" 'Forgery is the fraudulent making or alteration of any writing to the prejudice of another's rights.'

"It is insisted on behalf of the defendant Austin that the facts detailed above do not constitute forgery, and he relies upon the case of Hill *v.* State, 1 Yerg. 76, 24 Am. Dec. 141, in support of his contention. We quote from that case as follows:

" 'That on the 3d day of April, 1822, in the county of Williamson, the accused sold land to Daniel Ireland for $465, to be paid in installments at stated periods; that the note on which the indictment is founded was executed at the time and place aforesaid, in part payment for the land, that Ireland was an illiterate man; that the accused wrote the note, with the other notes for the consideration money, in presence of the said Ireland and the subscribing witness, and read it, together with the other notes, over to the prosecutor in the hearing of the subscribing witness; that he, the accused had written the note in question for $100, when it should have been written for $65; that it was by the accused falsely and fraudulently read over as a note for $65, when in fact it was written for $100, and that it was done with a view to defraud and injure the said Daniel,' etc. On this special finding the circuit court gave judgment against the prisoner, from which